

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Razel Ariz,

Plaintiff,

v.

Everest Receivable Services, Inc.; and DOES
1-10, inclusive,

Defendants.

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: Civil Action No.: _____
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COMPLAINT

Plaintiff, Razel Ariz, says by way of Complaint against Defendant, Everest Receivable Services, Inc., as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of Plaintiff's personal privacy by Defendant and its agents in their illegal efforts to collect a consumer debt.

2. This Court has supplemental jurisdiction over all other claims in this action, as all such claims arise out of the same case or controversy as Defendants' violations of the FDCPA pursuant to 28 U.S.C. § 1367.

3. Venue is proper in the U.S. District Court for the District of New Jersey pursuant to 28 U.S.C. § 1391(b), as Defendants transact business in the State of New Jersey.

PARTIES

4. The Plaintiff, Razel Ariz ("Plaintiff"), is an adult individual residing in Jersey City, New Jersey, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Everest Receivable Services, Inc. (“Everest”), is a New York business entity with an address of 352 Sonwil Drive, Cheektowaga, New York, 14222, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Everest and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Everest at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. The Plaintiff incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”) for a medical bill.

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Everest for collection, or Everest was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. Everest Engages in Harassment and Abusive Tactics

12. Within the last year, Everest contacted Plaintiff in an attempt to collect the Debt.

13. In or around mid-February 2013, Plaintiff provided Everest with her bank account information and authorized one time withdrawal of \$54.50. Plaintiff stated that she would contact Everest when she had sufficient funds to pay the Debt.

14. Few days later, Everest called Plaintiff and advised her that it was intending to withdraw the remainder of the Debt from Plaintiff's bank account.

15. Plaintiff informed Everest that she did not have sufficient funds in her bank account and could not afford to pay the balance at that time and reiterated that she would continue making payments when she could do so.

16. Thereafter, despite being informed of Plaintiff inability to pay, Everest continued calling Plaintiff in an attempt to collect the Debt at an excessive rate, placing daily calls to Plaintiff's cellular telephone and Plaintiff's place of employment.

17. Moreover, Everest called Plaintiff's parents in an attempt to collect the Debt.

18. Everest called Plaintiff's parents on more than one occasion, ever after it was informed that Plaintiff did not reside there and was unreachable at that number.

19. Everest disclosed the nature of the call to Plaintiff's parents, causing a great deal of embarrassment to Plaintiff.

20. Everest called Plaintiff's parents for purposes other than Plaintiff's location information.

21. At a later conversation with Everest, Plaintiff offered to send a check in the amount of \$100.00 toward the remaining balance.

22. Everest refused Plaintiff's offer and demanded that Plaintiff's bank account information.

23. Everest threatened to take a legal action against Plaintiff if the Debt was not paid immediately in the manner proposed by Everest.

C. Plaintiff Suffered Actual Damages

24. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

25. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

26. The Defendants' conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

27. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

28. The Defendants' conduct violated 15 U.S.C. § 1692b(1) in that Defendants contacted third parties for purposes other than to confirm or correct location information.

29. The Defendants' conduct violated 15 U.S.C. § 1692b(2) in that Defendants informed third parties of the nature of the Plaintiff's debt and stated that the Plaintiff owed a debt.

30. The Defendants' conduct violated 15 U.S.C. § 1692b(3) in that Defendants contacted third parties in regards to the Plaintiff's debt on numerous occasions, without being asked to do so.

31. The Defendants' conduct violated 15 U.S.C. § 1692c(b) in that Defendants communicated with individuals other than the Plaintiff, the Plaintiff's attorney, or a credit bureau.

32. The Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

33. The Defendants' conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.

34. The Defendants' conduct violated 15 U.S.C. § 1692e(5) in that Defendants threatened to take legal action, without actually intending to do so.

35. The Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect a debt.

36. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

37. The Plaintiff is entitled to damages as a result of Defendants' violations.

COUNT II

INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

38. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

39. The Restatement of Torts, Second, § 652(b) ascribes liability for intrusion upon seclusion where one individual, "intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns," and further states that "[said individual] is subject to

liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

40. New Jersey further recognizes Plaintiff’s right to be free from invasions of privacy. Thus, the Defendant violated New Jersey state law.

41. The Defendants’ telephone calls to the Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding [the Plaintiff],” and “a substantial burden to [his] existence,” amounting to an invasion of privacy as defined by the Restatement of Torts, Second, § 652(b).

42. The Defendants’ conduct of engaging in the foregoing illegal collection activities resulted in multiple invasions of privacy that would be considered highly offensive to a reasonable person.

43. As a result of the intrusions and invasions enumerated above, the Plaintiff is entitled to actual damages from the Defendants in an amount to be determined at trial.

44. All acts of the Defendants and their agents were committed with malice, intent, wantonness, and recklessness, and as such, the Plaintiff is entitled to punitive damages from the Defendants.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

1. Actual damages including, but not limited to, the emotional distress the Plaintiff has suffered (and continues to suffer) as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy pursuant to 15 U.S.C. § 1692k(a)(1);
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);

3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.
§ 1692k(a)(3);
4. Liquidated damages;
5. Punitive damages; and
6. Such other and further relief that the Court may deem just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 14, 2013

Respectfully submitted,

By: /s/ Sofia Balile

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